

THE ADAIR COUNTY NEWS.

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COLUMBIA, ADAIR COUNTY, KENTUCKY, WEDNESDAY NOVEMBER 27, 1901.

NUMBER 3.

POSTOFFICE DIRECTORY

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Office hours, week days, 7:00 a. m. to 9:30 p. m.

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Circuit Court—Three sessions a year—Third Monday in January, third Monday in May and third Monday in September.
Circuit Judge—W. W. Jones.
Commonwealth's Attorney—N. H. W. Aaron.
Sheriff—J. W. Hart.
Clerk—Jno. B. Coffey.

County Court—First Monday in each month.
Judge—J. W. Butler.
County Attorney—Jas. Gannett, Jr.
Clerk—T. R. Stults.
Jailer—S. H. Mitchell.
Assessor—J. A. Bradshaw.
Surveyor—G. T. McCaffee.
School Supt.—W. D. Jones.
Coroner—Leonard Fletcher.

CITY COURT—Regular court, second Monday in each month.
Judge—J. W. Atkins.
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G. A. Kemp, W. M.
T. R. Stults, Sec'y.
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Gov. Beckham Replies to Gov. Durbin.

Holding Him up to the Scorn of all Lawabiding, Honest People.

A PARTY AFTER THE FACT.

Frankfort, Nov. 11, 1901.—Hon. Winfield T. Durbin, Governor of Indiana, Indianapolis, Ind.—Sir: Your refusal to honor the requisition some time ago sent you by me, asking for the extradition of W. S. Taylor and Charles Finley, fugitives from justness from this State, charged with being accessories to the murder of William Goebel, was not unexpected, but the remarkable letter with which you accompanied the return of the papers was indeed a surprise to me, and I sincerely regret the necessity of this reply. It is true I had been reliably informed that you had incurred campaign obligations which committed you to the protection of these two valuable adjuncts to your political fortunes, and they had been promised immunity from arrest under requisitions from the Kentucky authorities in the event of your election as Governor. This information has been confirmed by your conduct and by the complete sense of protection under which these two men seem to have rested since your inauguration of the office.

You are at least entitled to the credit of having faithfully carried out your reputed agreement with them, however much in doing so you have violated your oath of office and brought discredit upon the position you hold. But even with the understanding of your embarrassing position, confronted, as you were, on the one side by the law and justice and on the other by a miserable political bargain, I could not believe that you would so far forget the dignity and obligations of your office and the courteous relations that exist among the Chief Executives of the various States as to go out of your way as to offer a gratuitous insult to the people of Kentucky, and to cast a reflection upon the courts and public officials of the State. If these slanderous charges had come from you as an individual, then they would be treated with the silent contempt they so justly deserve, but as they come from you as the Governor of a great State, I shall not hesitate to hold you up to public scorn, and show how unjust and unfounded are the willful and inexcusable misrepresentations in your letter.

NOT A CONSCIENTIOUS CONVICTION.

When your predecessor, the late Gov. Mount, refused to honor similar requisitions made on him by me, I declined to criticize him, because, while he had acted under gross misrepresentations to him as to the facts and an erroneous conception of his official power in the matter, I yet believed that he had been governed by honest and conscientious convictions. I cannot say so much for you. You are not entitled to such an excuse, for when, with the record in your hands, you deliberately misquote that record in order to forge a libel against the courts and citizens of this State, the plea of ignorance can not be entered in your behalf. Forgetful of the duties and proprieties of the exalted position you occupy as the Chief Executive of a sovereign State, and blinded with partisan hate, you have not only cast an insult upon a brave and generous people, but you have also exercised a power which has been expressly denied you by the Constitutions and laws of the United States, which you swore to uphold and support when you took the oath of office.

NO "DISCRETIONARY POWER."

In your letter refusing these requisitions, you say: "I choose to make use of the right and the duty as the Executive of the Commonwealth to exercise a discretionary power of refusal." Let us see what the law is as to this "discretionary power." Since I have been Governor of Kentucky I have never refused to honor the requisition of the Governor of any State, and I honored no less than a dozen issued upon me at different times by the Governor of Indiana. It has been my view of the law that my duty in such matters was purely ministerial, not discretionary, and I have believed that whenever a requisition was presented

to me with the papers properly made out, it was my duty, not to try the case, but to issue the proper warrant of arrest for the fugitive and have him surrendered to the proper officer. But it is not necessary to argue this question. A statement of the law is sufficient to convince anyone save an apologist of Goebel's assassination. In article 4, Section 2, of the Constitution of the United States, is the following provision "Fugitives from Justice:"

"A person charged in any State with treason, felony or other crimes, who shall flee from Justice, and be found in another State, shall on demand of the Executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime."

Then Section 5278 of the Revised Statutes of the United States reads as follows:

"Whenever the Executive authority of any State or Territory demands any person as a fugitive from justice of the Executive authority of any State or Territory to which such person has fled and produces a copy of an indictment found or an affidavit made before a Magistrate of any State or Territory charging the person demanded with having committed treason, felony or other crime, certified as authentic by the Governor or Chief Magistrate of the State or Territory where the person so charged has fled, it shall be the duty of the Executive authority of the State or Territory to which such person has fled to cause him to be arrested and secured and to cause notice of the arrest to be given to the Executive authority making such demand, or to the agent of such authority appointed to receive the fugitive, and to cause the fugitive to be delivered to such agent when he shall appear."

A SUPREME COURT RULING.

Observe that the word "shall" is used in both the constitutional provision and in the statute. The expression, "It shall be the duty," does not allow and "discretionary power." But in order to avoid any discussion whatever as to the meaning of the law, let us examine the opinion of the Supreme Court of the United States in regard to it. In the case of Kentucky vs. Denison (65 U. S. Reports), where the Governor of Ohio had refused to deliver a fugitive asked for by the Governor of Kentucky, that court, while refusing to grant the mandamus asked for, claiming that it had no power to grant it in such a case, nevertheless said, the Chief Justice delivering the opinion of the court:

"It will be observed that the judicial acts which are necessary to authorize the demand are plainly specified in the act of Congress; and the certificate of the Executive authority is made conclusive as to their verity when presented to the Executive of the State where the fugitive is found. He has no right to look behind them, or to question them, or to look into the character of the crime specified in this judicial proceeding. The duty which he is to perform is, as we have already said, merely ministerial—that is, to cause the party to be arrested and delivered to the agent or authority of the State where the crime was committed. It is said in the argument that the Executive officer upon whom this demand is made must have a discretionary Executive power, because he must inquire and decide who is the person demanded. But this certainly is not a discretionary duty upon which he is to exercise any judgment, but is merely a ministerial duty—that is, to do the act required to be done by him, and such as every Marshal and Sheriff must perform when process, either criminal or civil, is placed in his hands to be served on the person named in it. And it has never been supposed that this duty involved any discretionary power or made him anything more than a mere ministerial officer; and such is the position and character of the Executive of the State under this law, when the demand is made upon him and the requisite evidence produced. The Governor has only to issue his warrant to an agent or officer to the party named in the demand."

IS UNTRUE TO HIS OATH.

I commend the entire opinion in this case for your perusal and study, with the hope that you may profit by its instruction and not again, when dealing with such matters, speak of "discretionary power." Remember, too, that the construction placed upon the Constitution by the highest court in the land becomes itself a part of that instrument which you took an oath when you became Governor of Indiana to support. A comparison of your letter with the decision of the Supreme Court is sufficient to show whether or not you have been faithful to that oath.

Passing on from showing how you have disregarded the Constitution and law of your country. I will proceed to show how you have perverted the record in the recent trial of Caleb Powers and sought by such action to bring discredit upon an honorable and upright Judge, whose life of public service has been unstained by a single dishonorable act, and whose character as a man and a jurist stands unimpaired among the good people of this State.

WHERE RECORD WAS PERVERTED.

You criticize the recent trial of Powers and denounce Judge Cantrell for his instructions to the jury. You say in your letter he instructed it "that it might convict on the testimony of one alleged accomplice if that testimony was corroborated by that of another alleged accomplice; that it might convict the defendant for the act of another man, to which the defendant had never agreed," etc. To show how untrue the statement is I reproduce from the record the exact instruction of the Judge in that case on this point:

"Eighth—The jury cannot convict the defendant upon the testimony of an accomplice or of accomplices unless the testimony be corroborated by other evidence tending to connect the defendant with the commission of the offense, and the corroboration is not sufficient if it merely shows that the offense was committed and the circumstances thereof."

Is this a manly way to attack anyone? Is it right and proper to manufacture evidence to blacken, if possible, his character? You insinuate, too, that the Judge has been influenced in his trials of these cases by his aspirations as a candidate for the United States Senate. If rumor speak true, you are not above suspicion in that respect yourself, and the rancorous spirit of your letter shows that you are making a bid for the support of the implacable and radicals in your own party, with a view to that end. I doubt the wisdom of your policy to secure such an honor. The people of Indiana love fair play, and although at times stirred to a high pitch of excitement in political contests, they are nevertheless broad-minded, liberal and obedient to the law. My confidence in them and in their civil institutions is so great that I will never, while Governor of Kentucky, cast a reflection upon them or upon their courts by refusing to surrender to them a violator of their laws when properly demanded, even though the fugitive should be of my own political faith and charged with conspiring to murder his political opponent whom he could not defeat otherwise. The good people of your State do not indorse you in this matter.

GIVES HIM THE LIE DIRECT.

I wish to call attention to another misstatement in your letter. You say you have on file letters and protests from "many representative Democrats of this State, prominent in the organization of the party, and from editors of Democratic newspapers," asking you to refuse to honor these requisitions. I make the assertion, and you cannot disprove it by producing such a letter, that not a Democrat in Kentucky belonging to the organization of the party, nor the editor of any Democratic newspaper, has made such a request of you.

I have no doubt that some of the people who have urged you not to give up these men did so, not because they thought fair trials would be denied them, but because they feared that close investigations into this crime would disclose their part in the conspiracy.

There is no doubt now that the assassination of William Goebel on the State Capitol grounds was the result of a deliberate and carefully planned conspiracy; that he was shot from a window in the office of the Secretary of State, not over forty feet from the Governor's office, where W. S. Taylor was when the shot was fired; that Taylor immediately had all the entrances to the building guarded, and forbade the admission of the peace officers who sought to enter and search for the assassin; that he threw every obstacle in his power in the way of preventing the arrest and conviction of any one suspected of the crime; that he issued his pardons to some of these under sus-

picion even before their arrest and indictment; that he was presumably the beneficiary in the death of William Goebel, who was contesting with him the title to the governorship of Kentucky; that he refused to recognize the writ of habeas corpus, filled the State capital with over a thousand armed desperadoes, and threatened the entire State with revolution and anarchy, and that to-day he is a cowering suppliant at your feet, begging that he be not given over to trial on an indictment charging him with being a conspirator in the murder of his successful rival.

NO INNOCENT TO BE PUNISHED.

It would be no satisfaction to any one to punish an innocent man for this crime. The mind of any civilized man revolts at such an idea. The brother and friends of the murdered Governor simply demand the punishment of those who conspired to kill him. No political advantage could be gained by any one or any party in convicting the two self-confessed criminals now basking in the smiles of your protection. They are certainly not political factors now sufficient to excite fear in the humblest heart, and if they are innocent a Kentucky Jury and Kentucky courts would throw around them every possible protection and vindication. You show in your letter itself that they are not in danger of "judicial persecution" when you call attention to the reversal of the case of Howard and the first trial of Powers by the Court of Appeals of this State. That court is composed of seven upright and honorable Judges, four of whom are of the same political party as yourself and these two fugitives.

That court would certainly never permit a judgment of Judge Cantrell's court to stand if what you say about it is true.

CHANGE OF VENUE NOT ASKED.

You ask: "Why, in the recent trial of Caleb Powers, should judicial proprieties have been outraged by the refusal of Judge Cantrell to give a change of venue from his hearing?" Another misstatement. Powers did not ask for such a change. In his first trial he did ask it, and it was changed by removing the case from Franklin county to Scott county, under our law which requires a Judge in granting a change of venue to send it to an adjacent county within the same district.

You ask again: "What was the object in appropriating \$10,000 for the conviction of the suspected murderers of William Goebel?" The same object which prompted the Government to pay secret service men and other detectives to discover if possible whether the miserable wretch Goebel had any confederate in his dastardly crime. Only \$7,000 has been spent of the Goebel reward fund, all in the legitimate expenses of the trials, and it is safe to assert that at least that much has already been spent in the laudable purpose of trying to discover the anarchist plot to murder our lamented President.

ANOTHER LIBEL REFUTED.

Again you ask, "Does not the evidence demonstrate that a portion of this sum has been paid for perjury?" There has not been a scintilla of evidence to that effect ever introduced, and your question was not asked in good faith. On the contrary, in the last trial of Powers strong evidence was introduced to show that some of his friends had sought to bribe witnesses for the Commonwealth.

Your reference to the Jennings county, Ind., case was unfortunate for yourself, for, if I am correctly informed, your part in it was not very creditable to you, and should have acted as an etoppe upon you from ever criticizing the make up of a jury.

But I shall not prolong this communication by undertaking to show all the inaccuracies and misrepresentations you have used. I am sorry that your letter necessitated such a plain and frank statement of the facts.

KENTUCKY'S NAME NEEDS NO DEFENSE.

The honorable name of Kentucky needs no defense at my hands. Her history is one of which we are justly proud. Over a hundred years ago she became a Commonwealth in the American Union, and her pioneer citizens cleared the forests, built homes, schools, churches, established civil government and quickly placed her among the first States of the Union. Her people are brave, generous, hospitable and obedient to the law. Life liberty and property are as safe with

in her borders as anywhere on earth. Only one time in her history were these blessings threatened, and that was brought about by those two fugitives whom you harbor and some of their associates. It was then, too, that the great body of Kentuckians showed their splendid character, their forbearance and their profound respect for the law and the constituted authorities, and it was their patient courage at such a critical time that brought order out of chaos, government out of anarchy. Such a people as these could neither be helped by your praise nor harmed by your scurrilous abuse, and such a people would never knowingly permit any one to be unjustly deprived of life or liberty.

A PARTY AFTER THE FACT.

In concluding your letter you say that my requisition had been refused because you did not want to make yourself a party to the "conviction and punishment of two reputable citizens of Indiana." But by such refusal you have made yourself a party after the fact to the most infamous crime in the history of this State, the cold-blooded and dastardly murder of an eminent and distinguished citizen of Kentucky, who has been elected to the highest office within the gift of our people. Respectfully,

J. C. W. BECKHAM,
Governor of Kentucky.

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